

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1917 of 1992

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

AVANTIBEN DAWUDBHAI CHRISTIAN

Versus

STATE OF GUJARAT

Appearance:

MR AK CLERK for Petitioner
MR SP HASURKAR for Respondent No. 1
NOTICE SERVED for Respondent No. 2, 3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 22/09/2000

ORAL JUDGEMENT

This petition was filed by Mrs. Avantiben Dawoodbhai Chisti, who is now dead and is represented by her 4 legal representatives being her husband and 3 children. By this petition, the relief claimed was that

the petitioner be treated to be in government service throughout on the post of Aaya in maternity home now part of the Police Hospital. Additional relief was also sought of conferral of status of the government employee on her and fixation of salary in the appropriate pay scale at par with government servant of equal grade and status.

2. In the reply submitted on behalf of the State, it has been stated that the petitioner happened to be employed as part-time Aaya in the maternity home which was not run by the Police but by the employees in the Police Department. The salary was paid to her from the contributions made to the Police Welfare Fund by the employees. It is also submitted that the petitioner approached the Labour Court and was awarded the relief of grant of salary of Rs.100/- per month. It is submitted that the petitioner was not in government employment. She could not have been given the status of a government employee and salary at par with the government employees. Ld. Counsel appearing for the petitioner submits that the maternity home which was run with the Welfare Fund of the employees in the Police Department was later on transferred to the Police Hospital. The other staff in the maternity home was absorbed in the services of the Police Hospital but the petitioner alone was singled out. In the reply to the above averments, additional reply has been filed by the State stating that in the Police Hospital Staff, had been recruited directly by the Government against the sanctioned posts. As the petitioner happened to work in the maternity home, now run by the Police Hospital, she was allowed to continue on the job of Aaya but salary was paid to her from the Employees' Welfare Fund. In the absence of any available sanctioned post of Aaya the services of the petitioner were not absorbed. She did not possess any qualifications for the post of Aaya.

3. At the time of hearing of this petition, it is reported that the petitioner is dead. As has been explained on behalf of the Government, the petitioner was not in employment of the State. The petitioner was working in a maternity home run from the funds contributed by police employees. She had no right to seek absorption in government service. She was accommodated so long as she was alive in the maternity home and the salary was paid to her from the Welfare Fund. It is not possible for this Court, after her death, to direct that she should have been allowed the status of a government servant and paid salary at par with the government servant. For the aforesaid reasons,

the legal representatives of the deceased petitioner are not entitled for any relief. The petition is accordingly disposed of with no orders as to costs.

(D.M.Dharmadhikari, CJ)

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